Ontario Labour Relations Board

The Ontario Labour Relations Board (OLRB) is an independent, quasi-judicial tribunal which mediates and adjudicates a variety of employment and labour relations related matters under various Ontario statutes.

Chair – Bernard Fishbein

Ontario

Annual Report 2011-2012

Table of Contents

Chair's Message 2
Organizational Overview 5
The Board 6
The Board's Principal Statutes 7
Board Processes 9
Order in Council Appointments 10
Board Staff and Key Activities 11
Organizational Chart 13
Operational Performance 14
Total Applications Received, Disposed of and Pending 16
Applications Received and Disposed of – 5 year Comparison 17
Mediation Results 18
Certification and Termination of Bargaining Rights Cases 19
Contravention of Act 22
Construction Industry Grievances 23
Appeals Under the Employment Standards Act 24
Occupational Health and Safety Act 25
Miscellaneous Applications 26
Time Required to Dispose of Applications, By Major Case Type 29
Court Activity 30
Financial Position 32
Performance Measures 33
Accountability Statement 34

Chair's Message

Last year when I wrote this opening message to the Board's Annual Report I had been Chair for only a few months, and although I continue to learn about and appreciate the Board's unique role from a much different perspective than my more than 30 years of private practice (which included regularly appearing before the Board), I can no longer use that excuse. Nevertheless I continue to hold that same optimism both about the Board's performance over the last year and its future.

Slowly but surely we have been moving to transform the way the OLRB administers and performs the statutory responsibilities entrusted to it. It is after all a public statutory tribunal funded by public resources - it will need to perform its duties in a more efficient, cost effective and timely manner. This will require some changes in the way we do things and maybe some cultural changes both among the adjudicators and staff at the Board, the stakeholders we serve and the counsel who appear before us – for this I do not apologize. I am reminded of the words of the current Chief Justice of Ontario, that of course everyone is entitled to their day in court - they are just not entitled to everyone else's. To this end the past year has seen some changes in the way we do things.

1. We issued a new practice note on continuation dates - they are now set at the end of the hearing by the Vice-Chair or failing that within days of the last hearing date, either on agreement of the parties or failing that unilaterally by the Board. If people are coming back to the Board, before they leave the building, it is my objective that they know when and if possible for how long.

2. We have issued new guidelines about scheduling urgent hearings. Illegal strikes or lockouts continue to be scheduled within 36-48 hours. Interim applications are scheduled within 4-6 days of their filing so they can really be interim decisions. Cases involving discharges are scheduled either with the certification application (if they are related to a certification application) or within 6 weeks of their filing. We are so far relatively consistently meeting those targets - whether the parties then subsequently adjourn those expedited hearings is another matter which we are monitoring and will address if necessary.

3. We have substantially revamped the construction certification process. Effective January of this year all construction certification applications are directed to a Case Management Hearing generally held within 5 weeks of the filing of the application. Strict guidelines are imposed to identify issues and parties positions about them in some detail and produce documents before the Case Management Hearing. Certainly the Board will deal with procedural issues at the Case Management Hearings – make rulings, give directions and schedule cases so that they hopefully can be completed as fast as possible and valuable hearing time (particularly when scheduled on agreement of the parties) will not be wasted. But the Board will also deal with substantive issues (to the extent it can) and parties should expect and be prepared to make legal argument about such positions at Case Management Hearings. Rulings have been made, certificates granted and applications dismissed at Case Management Hearings. At the end of June we will examine what the statistical data show us - and it still may be too soon to judge but the anecdotal evidence to date suggests that we

are being successful in expediting the processing of these applications.

4. We have revised our adjournment *sine die* policy – certification cases are adjourned for only 3 months now – others for only 9 months – cases that have been adjourned *sine die* and requested to be rescheduled will be sent to Case Management Hearings.

If you are discerning a certain theme here, you are not wrong. No one needs me to say that Ontario faces uncertain economic times. As public finances become more constrained, the Board is not exempt. We will need to become better and more efficient at what we do. You can expect the Board to become more judicious in how its resources are actually used and to prevent their being wasted. Whether that will be reflected in a closer scrutiny of parties at the last moment seeking to adjourn hearing dates (particularly when dates have been already been agreed upon) or becoming more aggressive in the management of the hearing of cases including how much evidence it is necessary to actually hear (or the form of that evidence) still remains to play out.

That is not to say that I am here to say how the Board plans to make the life of those who appear before it arduous or difficult. The Registrar and Deputy Registrar's office are available – both Peter Gallus and Catherine Gilbert are highly competent individuals – who have become even more seasoned after more than a year in their positions. They both return telephone calls and consider and deal with legitimate procedural problems. Just as I did in my years of private practice – I still answer my own phone.

We continue to seek out and make (at least in my assessment) high calibre appointments to the Board. Highly respected experienced labour relations counsel such as Jim Hayes have been appointed as Full-Time Vice-Chairs, as well as Edward McDermott and Larry Steinberg as Part-Time Vice-Chairs. Roy O'Rourke was appointed as a Full-Time member to sit on construction panels.

On another note as the statistical analysis contained in this report demonstrates, last year was once again a busy year for the Board. Business still looks good. Overall the Board received 4109 new cases last year (down 214 from last year, but slightly higher than two years ago and higher than the two years before). Whereas last year there were over 2250 cases pending from the previous year, this year that number dropped to just over 2000, so by this crude measure our backlog of cases is diminishing (or we are disposing of more of them). Greater detail and scrutiny is provided throughout this report.

Lastly, if I may be permitted the self-indulgence to repeat an observation from last year. Now after a full year into my appointment, I continue to be amazed at the expertise and dedication that the staff of the Board bring to their jobs day in and day out-which I have come to even more appreciate and admire. A team of knowledgeable and discerning adjudicators ensure that the Board maintains its reputation as Canada's largest and pre-eminent labour and employment tribunal. By way of further example, no

annual report could be complete without once again noting how spectacularly effective the Board's mediation efforts prove to be. Mediators are assigned to virtually every application filed with the Board and approximately 85% of all cases before the Board are settled or are withdrawn – only 15% need to be directed by way of hearing or consultation. The complement of Labour Relations Officers at the Board is too often unheralded but frequently a valuable resource.

As we continue to work diligently to make changes and seek improvements so the Board can be even better at what it does, as I have said before, I welcome everyone to contact the Board (and me) with their comments or concerns.

Bernard Fishbein
Chair – Ontario Labour Relations Board

Organizational Overview

The Ontario Labour Relations Board is an adjudicative agency of the Government of Ontario. As a tribunal operating at arm's length from the Ministry of Labour, the OLRB mediates and decides cases under more than twenty different workplace and employment-related laws. In addition to the primary responsibility that comes from its founding statute, the *Labour Relations Act, 1995,* a significant portion of the Board's work falls under the *Employment Standards Act, 2000* and the *Occupational Health and Safety Act*, as is described in more detail below.

Overall, the Board has varying degrees of jurisdiction assigned to it under the following statutes:

- *Ambulance Services Collective Bargaining Act, 2001,* S.O. 2001, c.10
- *Colleges Collective Bargaining Act,* R.S.O. 1990. c.15
- *Colleges Collective Bargaining Act, 2008,* S.O. 2008, c.15
- *Crown Employees Collective Bargaining Act, 1993,* S.O. 1993, c.38
- *Education Act,* R.S.O. 1990, c.E.2
- *Employment Protection for Foreign Nationals Act (Live-In Caregivers and Others), 2009,* S.O. 2009, c.32
- *Employment Standards Act, 2000,* S.O. 2000, c.41
- *Environmental Bill of Rights Act, 1993,* S.O. 1993, c.28
- *Environmental Protection Act,* R.S.O. 1990, c.E.19
  Including jurisdiction for:
  - *Environmental Assessment Act,* R.S.O. 1990, c.E.18
  - *Environmental Protection Act,* R.S.O. 1990, c.E.19
  - *Fisheries Act,* R.S.C. 1985, c.F-14
  - *Nutrient Management Act,* S.O. 2002, c. 4
  - *Ontario Water Resources Act,* R.S.O. 1990, c.O.40
  - *Pesticides Act,* R.S.O. 1990. c.P.11
  - *Safe Drinking Water Act, 2002,* S.O. 2002, c.32
  - *Toxics Reduction Act, 2009,* S.O. 2009, c.19
- *Fire Protection and Prevention Act, 1997,* S.O. 1997, c.4
- *Hospital Labour Disputes Arbitration Act,* R.S.O. 1990, c.H.14
- *Labour Relations Act, 1995,* S.O. 1995, c.1, Sch. A
- *Local Health System Integration Act, 2006,* S.O. 2006, c.4
- *Long Term Care Homes Act, 2007,* S.O. 2007, c.8
- *Occupational Health and Safety Act,* R.S.O. 1990, c.O.1
- *Ontario Provincial Police Collective Bargaining Act, 2006,* S.O. 2006, c.35, Sch. B
- *Public Inquiries Act, 2009,* S.O. 2009, c. 33, Sch. 6
- *Public Sector Labour Relations Transition Act, 1997,* S.O. 1997, c. 21
- *Public Service of Ontario Act, 2006,* S.O. 2006, c.25, Sch. A
- *Smoke-Free Ontario Act,* S.O. 1994, c.10

The Board

The Board is an independent adjudicative tribunal with a mandate to mediate and adjudicate a broad variety of workplace disputes. Its staff are appointed under the *Public Service of Ontario Act, 2006*. Direction for its mission, mandate, service standards, governance and accountability is set out in the *Adjudicative Tribunal Accountability, Governance and Appointments Act, 2009*.

The Board is composed of a Chair, an Alternate Chair, Vice-Chairs, Board Members, a complement of labour mediators, a Solicitors' Office and a Registrar's office. These individuals, aided by the Board's support staff, draw upon specialized expertise in the labour and employment field to settle and adjudicate cases before them. The Board strives to keep its procedures informal, expeditious and fair. However, it is important to recognize that legal rights are at issue, the statutory frameworks are sometimes complex, and parties are encouraged to seek independent legal advice, if not legal representation, to assist them in Board proceedings.

The Board is entitled to determine its own practices and procedures, and has the authority to make rules and forms governing its practices and the conduct of those appearing before it. The Board's Rules, Forms and Information Bulletins are available on its website at www.olrb.gov.on.ca or from the Board's offices at 505 University Avenue, 2nd Floor, Toronto, Ontario, M5G 2P1.

The Board plays a fundamental role in the labour relations, employment standards, and health and safety regimes in Ontario. Board decisions are based on the evidence presented and submissions received, and on the adjudicator's interpretation of the facts in dispute, relevant legislation and jurisprudence. In keeping with the Ministry of Labour's overarching principles, the Board encourages harmonious relations between employers, employees and trade unions. It deals as expeditiously and fairly as reasonably possible in processing, settling or adjudicating all matters that come before it.

The Board's Principal Statutes

Labour Relations Act, 1995

The Ontario Labour Relations Board was established by section 2 of the *Labour Relations Act, 1948* and is continued by subsection 110(1) of the current *Labour Relations Act, 1995*.

The Board's work under the LRA is guided by the legislative policy set out in section 2 of the Act:

2. The following are the purposes of the Act:

1. To facilitate collective bargaining between employers and trade unions that are the freely designated representatives of the employees.
2. To recognize the importance of workplace parties adapting to change.
3. To promote flexibility, productivity and employee involvement in the workplace.
4. To encourage communication between employers and employees in the workplace.
5. To recognize the importance of economic growth as the foundation for mutually beneficial relations amongst employers, employees and trade unions.
6. To encourage cooperative participation of employers and trade unions in resolving workplace disputes.
7. To promote the expeditious resolution of workplace disputes.

With this policy as a basis, the Act confers on the Board the authority over many significant aspects of labour relations, including the certification of unions to represent employees, termination of bargaining rights. the handling of unfair labour practices (including a union's duty of fair representation or fair referral of its members), successor bargaining rights, strikes, lock-outs, first contract direction, jurisdictional disputes and a range of issues arising in the construction industry, including the arbitration of grievances.

Employment Standards Act, 2000

The ESA confers authority on the Board to hear applications for review of decisions made by Employment Standards Officers. Claims filed under the ESA with the Ministry of Labour (for wages, overtime, termination or severance pay, other violations of the Act) are investigated by Employment Standards Officers who direct payment of outstanding monies, issue orders for wages or compensation, or refuse to issue orders. Appeals of Employment Standards Officers' decisions, or refusals to make orders are handled by the Board.

Mediation is attempted in all ESA matters before the Board. Where mediation is unsuccessful, the Board conducts what is in essence a fresh hearing of the workplace dispute. Parties to the dispute are expected to attend the hearing with their evidence and witnesses, and be able to persuade the Board of the correctness of their case.

Occupational Health and Safety Act

The OHSA is designed to ensure that every workplace is safe and every worker protected against injury or harm. Enforcement of the OHSA is conducted by health and safety inspectors, who may enter workplaces to inspect or investigate working conditions, equipment and compliance with the Act. Orders or decisions of inspectors can be appealed to the OLRB.

Also, there are protections for workers who exercise their rights under the OHSA and are disciplined or discharged for doing so (reprisals). These applications can be brought directly to the Board.

Other Applications

The Board receives a smaller number of applications under the other legislation that we administer. Generally speaking these are treated in a manner analogous to how we deal with the applications already described.

The Board also has administrative responsibility for a number of other adjudicative tribunals whose reporting structures and activities may be described in other Annual Reports. The Board administers the Education Relations Commission and the Colleges Relations Commission; the Board's Alternate Chair is also Chair of the Pay Equity Hearings Tribunal (an agency of the Ministry of Labour) and the Public Sector Compensation Restraint Board (an agency of the Ministry of Finance). Support services for all of these bodies are under the administration of the Director/Registrar.

Board Processes

Essentially, every application that is filed with the Board is first assigned to a Mediator (called a Labour Relations Officer). The Mediator is given an opportunity to contact or meet with the parties to explore the possibility of settlement. Parties are encouraged to mediate matters. Practically speaking, mediation is a less formal and often less costly process than a hearing. The settlement of a workplace dispute, worked out by the parties with the assistance of a mediator, gives the parties an agreement they can both live with and more responsibility and ownership of the agreed-to conditions. Roughly 80 - 85% of all disputes coming before the Board are settled by the parties.

If an application cannot be mediated successfully, the matter is forwarded to the Registrar to schedule a consultation or hearing. A consultation is a less formal type of adjudication, and may take on different forms. Primarily, it is a quick and pointed hearing with the parties, with the Vice-Chair (adjudicator) taking greater control over how the proceeding is conducted. Often, there is no need for sworn testimony. The Vice-Chair may ask questions of the parties, or may direct that the questioning be limited in scope.

A hearing is a formal adjudication, with opening statements, the examination and cross-examination of witnesses, presentation of relevant documentary evidence, and submission of final arguments.

Consultations and hearings (but not mediations) are open to the public unless the Vice-Chair or panel decides that a public airing of the dispute could be damaging to one of the parties. Hearings are not recorded and no transcripts are produced. The Board issues written decisions that are sent to the parties, and become public documents available for searching on public databases.

Order in Council Appointments

The Board's adjudicators (the Chair, Alternate Chair, Vice-Chairs and Board Members) are all appointed by the Lieutenant Governor in Council as Order in Council appointments (OICs), for a fixed term. Following is a chart as to who worked as an OIC in 2011 - 2012 and the term of their appointment.

Name	Position	First Appointed	Term Expires / Incumbent Resigns
Fishbein, Bernard	Chair	February 28, 2011	February 27, 2016
Gee, Diane L.	Alternate Chair	August 1, 2008	July 31, 2013
Anderson, Ian B.	Vice-Chair	March 24, 2004	March 23, 2017
Freedman, Harry	Vice-Chair	July 8, 1998	July 7, 2012
Hayes, James	Vice-Chair	June 30 2011	June 29, 2014
Kelly, Patrick M.	Vice-Chair	May 17, 1999	May 17, 2013
Lewis, John D	Vice-Chair	March 11, 2009	March 10, 2014
Lewis, Mark J.	Vice-Chair	September 27, 2006	October 7, 2011
McKee, David A.	Vice-Chair	April 29, 1999	April 29, 2013
McKellar, Mary Anne	Vice-Chair	January 24, 2001	January 23, 2017
McLean, Brian C.	Vice-Chair	July 8, 1998	July 7, 2012
Rowan, Caroline	Vice-Chair	May 6, 1999	May 6, 2013
Serena, Susan J.	Vice-Chair	May 28, 2003	May 27, 2014
Shouldice, Lee	Vice-Chair	May 30, 2007	May 29, 2017
Slaughter, Jack J.	Vice-Chair	February 3, 2003	February 2, 2014
Wacyk, Tanja	Vice-Chair	May 28, 2003	May 27, 2014
Waddingham, Kelly A.	Vice-Chair	April 7, 2004	December 31, 2012
Albertyn, Christopher J.	Part-Time Vice-Chair	September 1, 2004	August 30, 2012
Chauvin, Peter F.	Part-Time Vice-Chair	Ocober 1, 2007	March 23, 2012
Cummings, Mary Ellen	Part-Time Vice-Chair	August 1, 2008	July 31, 2013
Humphrey, Charles E.	Part-Time Vice-Chair	September 8, 2009	September 7, 2012
Jesin, Norman	Part-Time Vice-Chair	August 25, 2004	August 24, 2012
Kanee, Lyle	Part-Time Vice-Chair	February 25, 2009	February 24, 2014
McDermott, Edward T.	Part-Time Vice-Chair	May 17 2011	May 16, 2013
Murray, Corinne F.	Part-Time Vice-Chair	February 3, 2009	February 2, 2014
Sargeant, Timothy W.	Part-Time Vice-Chair	June 30, 2007	June 29, 2012
Schmidt, Christine	Part-Time Vice-Chair	December 10, 2010	December 9, 2012
Silverman, Marilyn	Part-Time Vice-Chair	February 1, 2011	January 31, 2013
Steinberg, Larry	Part-Time Vice-Chair	April 18, 2011	April 17, 2013
LeMay, R. D. Paul	Member (Employer)	December 15, 2005	December 14, 2013
O'Connor, Richard J.	Member (Employer)	November 6, 2002	November 5, 2013
O'Rourke, Roy	Member (Employer)	June 1, 2011	May 31, 2013
Rundle, Judith A.	Member (Employer)	July 17, 1986	July 16, 2012
Schel, John	Member (Employer)	June 15, 2010	June 14, 2012
Tomlinson, John A.	Member (Employer)	November 6, 2002	May 31, 2011
Baxter, Richard A.	Member (Employee)	April 3, 2006	April 2, 2014
Haward, Alan	Member (Employee)	March 25, 1998	March 24, 2017
McManus, Shannon R. B.	Member (Employee)	December 15, 2005	December 14, 2013
Patterson, David A.	Member (Employee)	April 2, 1986	April 1, 2017
Phillips, Carol	Member (Employee)	January 14, 2009	January 13, 2014

Board Staff and Key Activities

The OLRB's operations and staff can be broadly divided into: The Board's Adjudicators (OIC appointments), Administration, Field Services (mediation), and Legal Services. The administrative, field, and legal staff are public servants appointed under Part III of the Public Service of Ontario Act, 2006.

Office of the Director and Registrar

The Director / Registrar is the chief administrative officer of the Board. He, along with the Deputy Director / Registrar, is responsible for the overall administration of the Board's businesses: operations, mediation and adjudication. The Director / Registrar, along with the Deputy Director / Registrar, oversee the effective processing and scheduling of each case, communicate with the parties in matters relating to the mediation of cases, scheduling of hearings or on particular problems in the processing of any given case. Every application received by the Board enters the system through the Director / Registrar's office.

Manager of Administration

The Manager of Administration is responsible for the efficient operation of the Board through the effective and efficient coordination of the procurement and budget functions, human resources functions, client services, Information and Information Technology, and the provision of administrative direction for all shared/common services.

Library Services

Comprised of the former Ontario Labour Relations Board Library, the Workplace Safety and Insurance Appeals Tribunal Library and the Pay Equity Commission Library, the Ontario Workplace Tribunals Library is situated in the Board offices at 505 University Avenue, Toronto on the 7th floor.

Library holdings related to the OLRB include all reported OLRB decisions from 1944 to date, all judicial reviews of OLRB decisions from 1947 to date, all bargaining unit certificates issued by the OLRB from 1962 forward. In addition, the Library has a collection of all Employment Standards review decisions from 1970 to date and all Occupational Health and Safety appeal decisions from 1980 to date. Textbooks, journals and case reports in the areas of labour, administrative and constitutional law are also held.

Field Services (Mediation)

The Board is a pioneer in the area of alternative dispute resolution. The Manager of Field Services, Labour Relations Specialists, and Labour Relations Officers, are responsible for mediating settlements in all of the Board's cases. In addition to settling cases, Labour Relations Officers assist parties in identifying issues and streamlining the cases that do get adjudicated in order to avoid unnecessary litigation. They also, along with the Board's Conciliation Officers, carry out the Board's pre and post vote phone mediation program and conduct representation and final offer votes.

Information Technology Support

Services in IT are provided to the Board by in-house staff of the Labour and Transportation Cluster. Systems Officers are responsible for the technological aspects of the Board's case processing systems, website, electronic communication and individual computer support.

Legal Services

Legal Services to the Board are provided by the Solicitors' Office, which consists of two Board Solicitors. The Solicitors provide legal research, advice, opinions and memoranda to the Chair, Vice-Chairs, Board Members, Labour Relations Officers and administrative staff. They are extensively involved in changes to the Board's rules of procedure and forms and contribute to the continuing education of staff. The Solicitors are the Board's media spokespersons, and handle all inquiries, investigations and complaints under freedom of information or human rights legislation and from Ombudsman Ontario. The Board's Solicitors also represent the Board in court proceedings, including applications for judicial review

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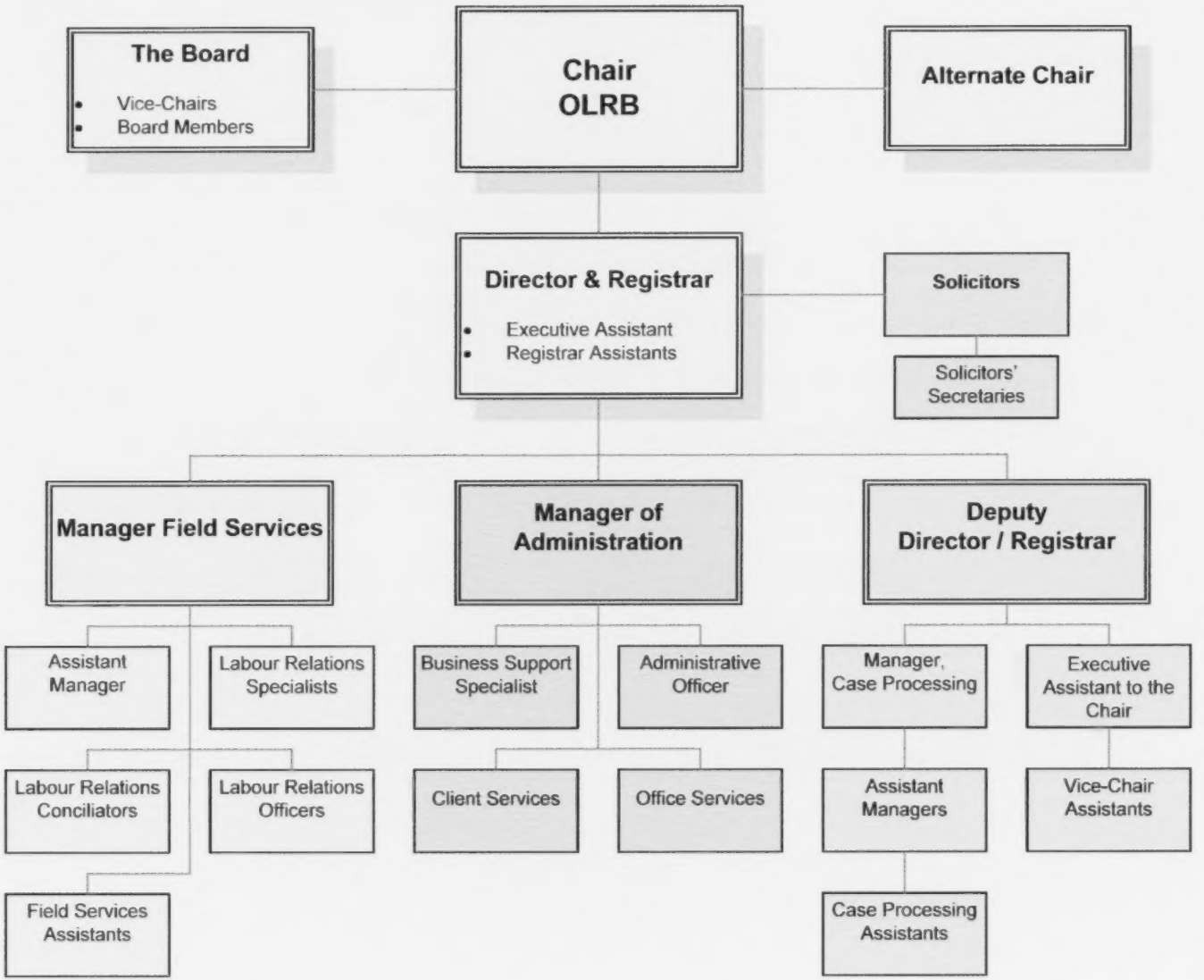
Organizational Chart – April 2011



Operational Performance

Case Numbers and Disposition

Overall, the Board received 4,109 new applications this year. This number is slightly lower than last year by about 214 cases but is higher than three of the last five years. 2,254 additional cases remained open from previous years as the 2011/12 year began, for a total number of files before the Board this year of 6,363.

Of the 6,363 files before the Board, 4,338 were disposed of, that is, settled, decided, withdrawn etc. In the result, 2007 cases were carried into 2012/13. The Board continues to work toward its goal to increase the number of cases disposed of in a year, and to that end we look for better ways to case manage, schedule, and deploy our resources. As a result of the adoption of several new policies and practices this past year, the Board was able to dispose of over 300 more cases than the previous year thus ensuring that we carried fewer cases forward.

Of the cases disposed of 60% were completed within approximately 90 calendar days of application receipt and about 81.5% were completed within 6 months. (Figure 13)

Main Case Types

The majority of cases filed in 2011/12 fall under 5 main categories:

1) Under the LRA, Certification and termination of bargaining rights – 592 applications for certification and 67 applications for termination of bargaining rights
2) Also under the LRA, Contraventions of the Labour Relations Act – 599
3) Also under the LRA, Referrals of Construction Industry Grievances – 968
4) Under the ESA, Appeals of decisions of Employment Standards Officers – 1304
5) Under the OHSA, Health and Safety (complaints under s50 and Appeals of Inspector's orders) - 213

It is interesting to note that over the past 5 years the Board's caseload has changed somewhat.

The number of certification files and applications for termination of bargaining rights are down relative to the last five years. The Board can expect an increase in the next year due to the tri-annual "open period" in the construction industry.

The number of unfair labour practice complaints (599) continues the downward trend over the last decade.

Five years ago, 718 were filed and, even more significantly, 11 years ago, 1096 were filed.

Construction grievances remain a relatively steady component of the Board's work; the number filed (968) is higher than four of the last five years.

While Employment Standards appeals were down slightly this year, they have significantly increased over the last five years: 1304 this year compared to 1351 last year, 896 the year before and 640 the year before that. The number of ES appeals disposed of in 2011/12 was 1407 which is the highest number processed in each of the last five years.

Applications made under s. 50 of the Occupational Health and Safety Act are up by over ten per cent and appeals of Occupational Health and Safety inspectors' orders are down by twelve per cent from last year.

Total Applications Received, Disposed of and Pending

Fiscal Year 2011-12	Caseload			Disposed of					
Type of Case	Total	Pending April 1, 2011	Received Fiscal Year 2011-12	Total	Granted*	Dismissed	Terminated	Settled Withdrawn Sine Die	Pending March 31, 2012
Total	**6,363**	**2,254**	**4,109**	**4,338**	**788**	**614**	**162**	**2,774**	**2,007**
Certification of Bargaining Agents	**828**	236	592	**614**	351	87	2	174	214
Declaration of Termination of Bargaining Rights	**128**	61	67	**97**	35	35	4	23	31
Declaration of Successor Trade Union	**4**	1	3	**1**	1	0	0	0	3
Declaration of Successor Employer or Common Employer Status	**238**	127	111	**111**	19	8	0	84	127
Accreditation	**4**	0	4	**0**	0	0	0	0	4
Declaration and Direction of Unlawful Strike	**5**	5	0	**3**	1	1	0	1	2
Declaration and Direction of Unlawful Lockout	**1**	0	1	**1**	0	0	0	1	0
Consent to Prosecute	**8**	3	5	**7**	1	2	0	4	1
Contravention of Act	**1,084**	485	599	**656**	23	200	2	431	428
Exemption From Union Security Provision in Collective Agreement	**8**	8	0	**0**	0	0	0	0	8
Early Termination of Collective Agreement	**11**	0	11	**11**	11	0	0	0	0
Trade Union Financial Statement	**3**	1	2	**2**	0	1	0	1	1
Jurisdictional Dispute	**237**	122	115	**57**	3	8	3	43	180
Referral on Employee Status	**21**	14	7	**10**	2	0	0	8	11
Referral From Minister on Appointment of Conciliation Officer or Arbitrator or Under HLDAA	**35**	13	22	**24**	10	1	0	13	11
Referral of Construction Industry Grievance	**1,189**	221	968	**987**	181	23	0	783	202
Complaint Under Occupational Health and Safety Act	**195**	72	123	**155**	1	41	2	111	40
Complaint Under the Environmental Protection Act	**1**	1	0	**0**	0	0	0	0	1
Complaint Under the Smoke-Free Ontario Act	**2**	0	2	**2**	0	2	0	0	0
First Agreement Arbitration Direction	**25**	12	13	**11**	5	1	0	5	14
Determination of Sector of Construction Work	**8**	5	3	**6**	0	2	0	4	2
Final Offer Vote	**20**	3	17	**14**	6	5	0	3	6
Employment Standards Act (Appeal)	**2,053**	749	1,304	**1,407**	115	179	140	973	628
Occupational Health and Safety Act (Appeal)	**162**	72	90	**101**	6	9	5	81	61
Public Sector Labour Relations Transition Act, 1997	**25**	12	13	**18**	5	1	0	12	7
Project Agreement Application	**7**	4	3	**2**	0	0	1	1	5
Ambulance Services Collective Bargaining Act, 2001	**7**	2	5	**6**	3	0	0	3	1
Other Case Types	**54**	25	29	**35**	9	8	3	15	19

* Includes cases in which a request was granted or a determination made by the Board.

Figure 1

Applications Received and Disposed of – 5 Year Comparison

Fiscal Years 2007-08 to 2011-12	Number Received, Fiscal Year						Number Disposed of, Fiscal Year					
Type of Case	Total	2007-08	2008-09	2009-10	2010-11	2011-12	Total	2007-08	2008-09	2009-10	2010-11	2011-12
	20,139	**3,924**	**3,782**	**4,001**	**4,323**	**4,109**	**18,456**	**4,172**	**4,097**	**3,675**	**3,087**	**3,425**
Certification of Bargaining Agents	**3,398**	789	742	623	652	592	**3,353**	826	748	559	671	549
Declaration of Termination of Bargaining Rights	**589**	116	115	140	151	67	**598**	142	125	112	126	93
Declaration of Successor Trade Union	**11**	1	1	5	1	3	**11**	2	4	2	2	1
Declaration of Successor Employer or Common Employer Status	**671**	127	154	165	114	111	**631**	147	179	142	92	71
Accreditation	**15**	4	2	4	1	4	**12**	3	1	5	3	0
Declaration and Direction of Unlaw ful Strike	**48**	13	12	17	6	0	**43**	10	14	15	2	2
Declaration and Direction of Unlaw ful Lockout	**5**	2	2	0	0	1	**4**	0	4	0	0	0
Consent to Prosecute	**15**	5	2	3	0	5	**15**	3	2	1	2	7
Contravention of Act	**3,373**	718	705	658	693	599	**3,228**	784	792	624	515	513
Exemption From Union Security Provision in Collective Agreement	**17**	3	5	9	0	0	**9**	3	4	2	0	0
Early Termination of Collective Agreement	**117**	10	78	10	8	11	**117**	8	79	11	8	11
Trade Union Financial Statement	**11**	0	3	2	4	2	**7**	0	1	3	2	1
Jurisdictional Dispute	**392**	52	93	54	78	115	**216**	50	47	54	36	29
Referral on Employee Status	**44**	14	8	5	10	7	**46**	11	9	11	5	10
Referral From Minister on Appointment of Conciliation Officer or Arbitrator or Under HLDAA	**104**	6	9	51	16	22	**56**	12	4	12	8	20
Referral of Construction Industry Grievance	**4,812**	908	936	1,048	952	968	**3,801**	917	972	989	448	475
Complaint Under Occupational Health and Safety Act	**520**	115	90	82	110	123	**519**	114	110	83	75	137
Complaint Under the Environmental Protection Act	**8**	2	0	5	1	0	**8**	1	1	0	6	0
Complaint Under the Smoke-Free Ontario Act	**6**	1	1	2	0	2	**6**	1	1	2	0	2
First Agreement Arbitration Direction	**69**	17	9	18	12	13	**55**	11	6	12	17	9
Determination of Sector of Construction Work	**9**	1	3	1	1	3	**8**	1	3	2	0	2
Final Offer Vote	**67**	9	15	13	13	17	**61**	13	15	7	15	11
Employment Standards Act (Appeal)	**5,058**	867	640	896	1,351	1,304	**4,939**	968	808	826	967	1,370
Occupational Health and Safety Act (Appeal)	**560**	101	117	150	102	90	**513**	103	123	157	67	63
Public Sector Labour Relations Transition Act, 1997	**61**	13	12	12	11	13	**63**	26	12	7	4	14
Project Agreement Application	**13**	3	1	2	4	3	**7**	3	1	2	0	1
Ambulance Services Collective Bargaining Act, 2001	**18**	4	3	3	3	5	**16**	4	4	2	2	4
Other Case Types	**128**	23	24	23	29	29	**114**	9	28	33	14	30

Figure 2

Mediation Results

Mediators are assigned to virtually every application filed with the Board and the majority of all files disposed of are settled by the parties with the assistance of a mediator. About 80 - 85% of all cases before the Board are settle or withdrawn; only 15% are decided by way of a Hearing or Consultation.

Fiscal Year 2011-12				Cases in Which Activity Completed					
Type of Case	Total Cases Assigned	Pending April 1, 2011	Received Fiscal Year 2011-12	Total	Cases Settled	% of Cases Settled	To Hearing / Consultation	Withdrawn / Sine Die	Pending**
Total	**6,363**	**2,254**	**4,109**	**4,338**	**3,586**	**82.7%**	**752**	**2,774**	**2,007**
Certification of Bargaining Agents	**828**	236	592	614	501	81.6%	113	174	214
Declaration of Termination of Bargaining Rights	**128**	61	67	97	73	75.3%	24	23	31
Successor Employer or Common Employer Status	**238**	127	111	111	72	64.9%	39	84	127
Referral on Employee Status	**21**	14	7	10	7	70.0%	3	8	11
Contravention of Act	**1,084**	485	599	656	520	79.3%	136	431	428
Referral of Construction Industry Grievance	**1,189**	221	968	987	879	89.1%	108	783	202
Complaint Under Occupational Health and Safety Act	**195**	72	123	155	135	87.1%	20	111	40
Employment Standards Act (Appeal)	**2,053**	749	1,304	1,407	1,155	82.1%	252	973	628
Occupational Health and Safety Act (Appeal)	**162**	72	90	101	94	93.1%	7	81	61
All Other Case Types	**465**	217	248	200	150	75.0%	50	106	265

*Includes all cases assigned to labour relations officers, which may or may not have been disposed of by the end of the year.

**Includes all cases in which the officer activity may or may not be complete but which was not disposed of by the end of the year (March 31, 2012).

Figure 3

Certification and Termination of Bargaining Rights Cases

All non-construction certification applications before the Board are decided by way of a vote, as are all termination applications, whether in the construction sector or not. The vast majority of construction certification applications are decided by a "card-check" process and not by vote. As such, the statistics shown about certification votes apply almost exclusively to non-construction sectors and to termination applications.

The Board received a total of 592 applications for certification and 67 applications for termination of bargaining rights. (Figure 1)

The Board held a total of 378 votes in 2011/12, with 18,993 people voting. The vast majority of these votes relate to certification files; the remainder are representational votes in termination applications, under the successor employer/related employer provisions of the Act or are votes related to Hospital, School Board and Municipal re-organization. Unions won the majority of certification votes (71.8%), and lost the majority of termination applications (61.2%). (Figure 4)

Fiscal Year 2011-12	Representation Cases Disposed			Representation Votes Conducted		Representation Ballots Cast		
Type of Case	Total Cases	Appl. Granted	Appl. Not Granted	Votes Conducted	Employees on Employers List	Total	In Favour of	Against
Total Certifications & Terminations	**341**	**245**	**96**	**378**	**25,326**	**18,993**	**53.4%**	**46.6%**
Certification of Bargaining Rights	**292**	215	77	342	23,717	17,630	54.6%	45.4%
Construction cases								
One union	**14**	5	9	27	413	395	14.9%	85.1%
Two unions	**2**	1	1	2	25	22	90.9%	9.1%
Regular cases								
One union	**258**	198	60	293	18,782	14,589	54.5%	45.5%
Two unions	**17**	10	7	19	4,473	2,602	60.1%	39.9%
Three unions	**1**	1	0	1	24	22	100.0%	0.0%
Termination of Bargaining Rights								
One union	**49**	30	19	36	1,609	1,363	38.2%	61.8%

* Refers to all representation votes conducted and the results counted during the fiscal year, regardless of whether or not the case was disposed of during the year

Figure 4

Of the non-construction certification applications, a minority relate to the manufacturing sector, and the majority related to the broader public sector and non-manufacturing businesses. (Figure 5)

Fiscal Year 2011-12	All Groups	
	Total	Employees
All Industries	**354**	**13,374**
Manufacturing	**14**	**691**
Clothing	1	47
Food, Beverages	6	229
Paper	1	147
Electrical Products	2	37
Other Manufacturing	4	231
Non-Manufacturing	**340**	**12,683**
Accomodation, Food Services	3	65
Construction	150	1,022
Education, Related	7	538
Health, Welfare Services	34	2,834
Hospital	4	1,548
Local Government	1	25
Other Services	135	6,418
Other Non-Manufacturing	6	233

Figure 5

Fiscal Year 2011-12	Total		Construction **		Non-Construction	
Employee Size *	Cases	Employees	Cases	Employees	Cases	Employees
Total	**351**	**13,385**	**150**	**1,058**	**201**	**12,327**
2-9 employees	**157**	**748**	115	507	42	241
10-19 employees	**71**	**970**	29	371	42	599
20-39 employees	**54**	**1542**	5	115	49	1,427
40-99 employees	**39**	**2464**	1	65	38	2,399
100-199 employees	**19**	**2549**			19	2,549
200-499 employees	**9**	**2646**			9	2,646
500+ employees	**2**	**2466**			2	2,466

* Refers to the total number of employees in one or more bargaining units certified in an application. A total of 355 bargaining units were certified in the 351 applications in which certification was granted.

** Refers to cases processed under the construction industry provisions of the Act. This figure should not be confused with the figure in Figure 13, which includes all applications involving construction employers whether processed under the construction industry provisions of the Act or not.

Figure 6

Of the 351 certification applications in which unions were successful, 157 bargaining units were composed of 2 - 9 employees, and at the other extreme 9 were bargaining units of 200 - 499 employees, and 2 were of units with over 500 employees. (Figure 6)

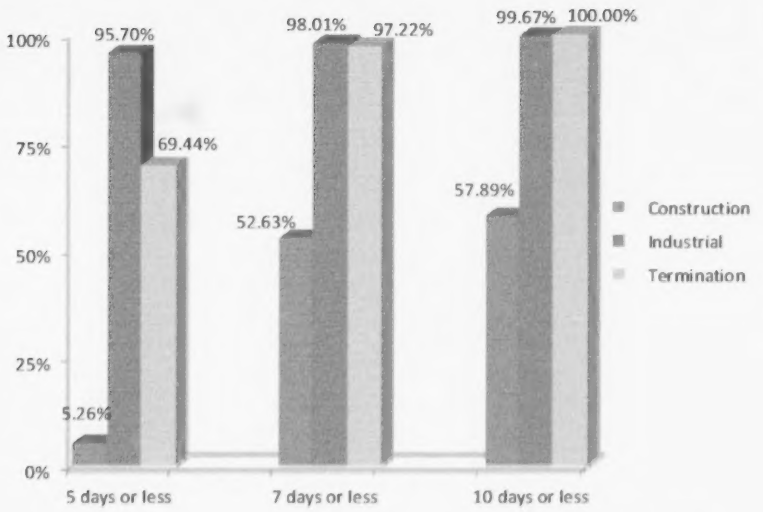


Figure 7

Over 95% of all non-construction certification votes were held within 5 working days of application, about 98% within 7 days and over 99% within 10 days of application. Termination applications took slightly longer, largely because of bargaining unit and notice issues: over 69% were held within 5 days of application, 97% within 7 days and 100% within 10 days of application. (Figure 7 & 8)

Fiscal Year 2011-12	Total		Industrial		Construction		Termination Cases to Vote	
Number of Days*	Cases	% of	Cases	% of	Cases	% of	Cases	% of
	321		302		19		36	
Under 5	0	0.00%	0	0.00%	0	0.00%	4	11.11%
5	290	90.34%	289	95.70%	1	5.26%	21	58.33%
6	6	1.87%	2	0.66%	4	21.05%	5	13.89%
7	10	3.12%	5	1.66%	5	26.32%	5	13.89%
8	3	0.93%	3	0.99%	0	0.00%	1	2.78%
9	3	0.93%	2	0.66%	1	5.26%	0	0.00%
10	0	0.00%	0	0.00%	0	0.00%	0	0.00%
11-15	1	0.31%	0	0.00%	1	5.26%	0	0.00%
16-20	0	0.00%	0	0.00%	0	0.00%	0	0.00%
over 20	8	2.49%	1	0.33%	7	36.84%	0	0.00%

*Number of Business Days between application date and date vote held

Figure 8

Contravention of Act

Complaints alleging contravention of the Act may be filed with the Board under section 96 of the Act.

In 2011-2012, the Board received 599 complaints under this section. In complaints against employers, the principal charges were alleged illegal discharge of or discrimination against employees for union activity in violation of section 70 and 72 of the Act, illegal changes in wages and working conditions contrary to section 86, and failure to bargain in good faith under section 17. These charges were made mostly in connection with applications for certification. The principal charge against trade unions was alleged failure to represent employees fairly in grievances against their employer.

Overall, In addition to the complaints received, 485 cases were carried over from 2010-2011. Of the 1,084 cases processed, 431 were settled, and 428 cases were pending on March 31, 2012. (Figure 1)

Duty of Fair Representation / Referral

Complaints against trade unions for a breach of the duty to provide fair representation or referral (ss 74 and 75 OLRA) accounted for 376 of the complaints processed. 1 was granted, 143 were dismissed, 13 were terminated and 92 were settled. 131 were pending as of March 31, 2012. (Figure 9)

Applications for Interim Order

Where a proceeding is pending, the Board, on application under the Act, may make interim orders requiring an employer to reinstate an employee in employment on such terms as it considers appropriate. The Board may also issue interim orders respecting the terms and conditions of employment of an employee whose employment has not been terminated but whose terms and conditions of employment have been altered or who has been subject to reprisal, penalty or discipline by the employer. The Board may only issue interim orders if specific conditions set out in the Act are met.

In 2011/12, the Board received 32 applications for interim orders. Three were granted, six were dismissed, one was terminated and 26 were settled. Six were pending on March 31, 2012.

Fiscal Year 2011-12	Caseload			Disposed of					
Type of Case	Total	Pending April 1, 2011	Received Fiscal Year 2011-12	Total	Granted*	Dismissed	Terminated	Settled Withdrawn/ Sine Die	Pending March 31, 2012
Duty of Fair Representation / Referral	**376**	162	214	**249**	1	143	13	92	131
Interim Order	**37**	5	32	**36**	3	6	1	26	6

* Includes cases in which a request was granted or a determination made by the Board.

Cases counted here also are reflected in Figure 1.

Figure 9

Construction Industry Grievances

Grievances over alleged violation of the provisions of a collective agreement in the construction industry may be referred to the Board for resolution under section 133 of the Act.

In 2011-2012, the Board received 968 cases under this section. The principal issues in these grievances were alleged failure by employers to make required contributions to health and welfare, pension and vacation funds, failure to deduct union dues, and alleged violation of the subcontracting and hiring arrangements in the collective agreement.

In addition to the cases received, 221 were carried over from 2010-2011. Of the total 1,189 processed, 987 were disposed of including 783 cases which were settled. Awards were made by the Board in 181 cases, 23 cases were dismissed, and 202 cases were pending on March 31, 2012. (Figure 1)

Appeals Under the Employment Standards Act

The *Employment Standards Act* deals with workplace rights such as minimum wage, hours of work, overtime, vacation or public holiday pay, violations of pregnancy or reprisal provisions, termination issues, and severance pay.

The Board dealt with 2,053 appeals during 2011-2012. Of the 1,407 cases that were disposed of, 115 were granted, 179 were dismissed, 973 cases were settled and 140 were terminated. 628 cases were pending on March 31, 2012. (Figure 1)

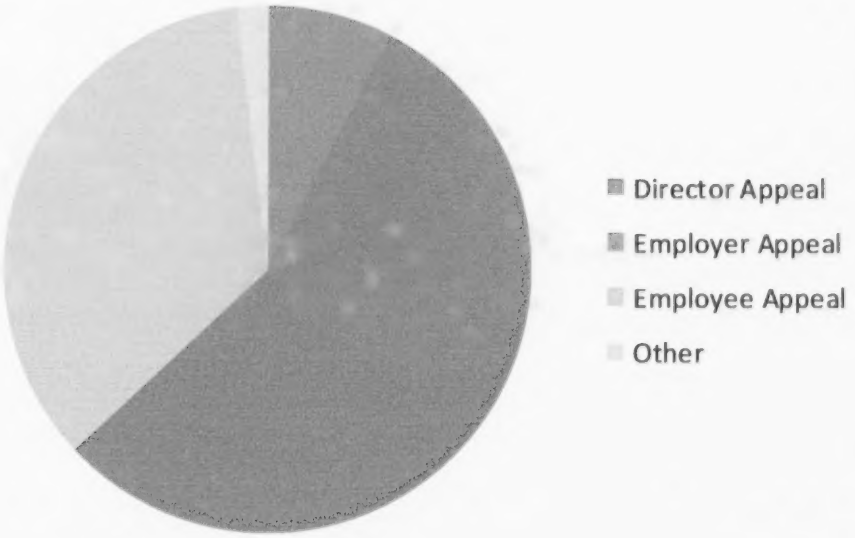


Figure 10

Fiscal Year 2011-12	
Employment Standards Act (Appeals)	**Cases Received**
Total	**1,304**
Director Appeal	**100**
Employer Appeal	**722**
Employee Appeal	**457**
Other	**25**

Figure 11

Occupational Health and Safety Act

In 2011-2012, the Board received 123 complaints under Section 50 of the *Occupational Health and Safety Act* alleging wrongful discipline or discharge for acting in compliance with the Act. Seventy-three cases were carried over from 2010-11.

Of the total 155 cases processed, 111 cases were settled by the parties in discussions with labour relations officers (Figure 3). 41 cases were dismissed, 1 case was granted, 2 cases were terminated, and the remaining 40 were pending on March 31, 2012.

Appeals under The Occupational Health and Safety Act

The *Occupational Health and Safety Act* and its regulations ensure that workers' health and safety in the workplace is protected. Violations of the Act are investigated by health and safety inspectors from the Ministry of Labour; orders or decisions of inspectors are the subject of appeals to the Ontario Labour Relations Board.

101 appeals were dealt with by the Board in 2011-2012. Of the 101 cases that were disposed of, 6 appeals were granted, 9 were dismissed, 81 cases were settled, 5 cases were terminated, and 61 cases were pending on March 31, 2012. (Figure 1)

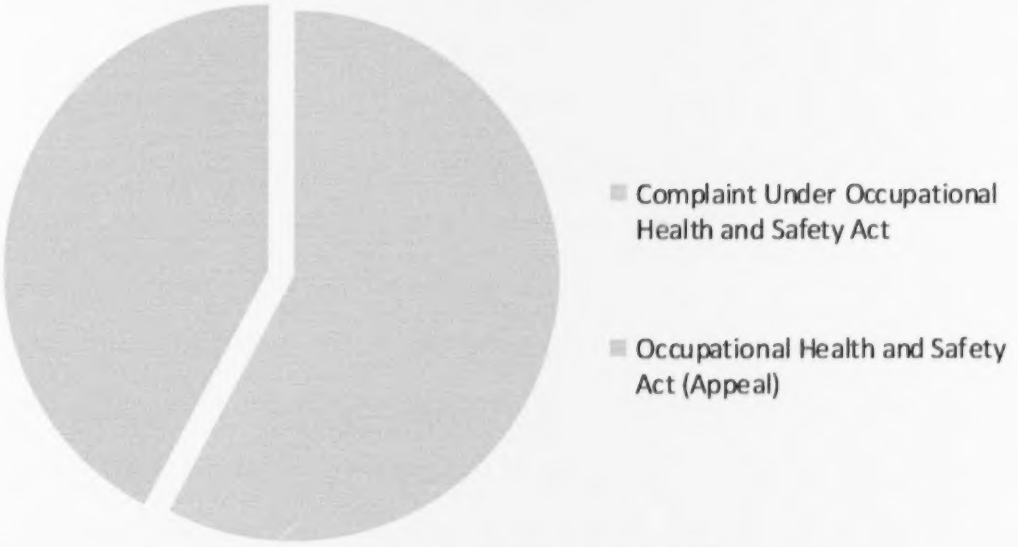


Figure 12 – Applications Received

Miscellaneous Applications

Final Offer Votes

In addition to taking votes ordered in its cases, the Board's Registrar was requested by the Minister to conduct votes among employees on employers' last offer for settlement of a collective agreement dispute under section 42(1) of the Act. Although the Board is not responsible for the administration of votes under that section, the Board's Registrar and field staff are assigned to conduct these votes because of their expertise and experience in conducting representation votes under the Act.

Of the 20 requests dealt with by the Board during the fiscal year, in 6 cases employees voted to accept the collective agreement, in 5 cases employees voted to reject the Collection Agreement, 3 were settled or withdrawn, and 6 cases were pending on March 31, 2012. (Figure 1)

Declaration of Successor Trade Union

One application for declaration of successor trade union was pending April 1, 2011 with three new applications received and one application was granted in the current fiscal year. There are 3 cases pending as of March 31st, 2012. (Figure 1)

Declaration of Successor or Common Employer Status

In 2011-2012, the Board dealt with 238 applications for declarations under section 69 of the Act concerning the bargaining rights of trade unions of a successor employer resulting from a sale of business, or for declarations under section 1(4) to treat two companies as one employer. The two types of requests are often made in a single application.

Affirmative declarations were issued by the Board in 19 cases, 8 applications were dismissed, 84 cases were settled and 127 cases were pending on March 31, 2012. (Figure 1)

Declaration/Direction of Unlawful Strike/Lock-out

In 2011-2012, the Board dealt with 5 applications seeking a declaration under section 100 regarding an alleged unlawful strike by employees. 1 case settled, 1 case was granted and 1 was dismissed. Two cases were pending on March 31, 2012.

The Board received one application for a declaration under section 101 regarding an alleged unlawful lock-out by an employer. It was settled. (Figure 1)

Consent to Prosecute

In 2011-2012, the Board dealt with 8 applications under section 109 of the Act requesting consent to institute prosecution in court against unions and employers for alleged commission of offences under the Act. Four cases were settled, two were dismissed and one was granted. One case was pending on March 31, 2012. (Figure 1)

Religious Exemption from Union Security Provision in Collective Agreement

Eight applications were processed under section 52 of the Act, seeking exemption for employees from the union security provisions of collective agreements because of their religious beliefs. These 8 applications remained pending as of March 31, 2012. (Figure 1)

Early Termination of Collective Agreements

11 applications were processed under section 58(3) of the Act, seeking early termination of collective agreements. These are joint applications by employers and trade unions. Consent was granted in all 11. (Figure 1)

Jurisdictional Disputes

237 complaints were dealt with under section 99 of the Act involving union work jurisdiction. An assignment of work in dispute was made by the Board in 3 cases, 43 cases were settled, 8 cases were dismissed, 3 were terminated, and 180 cases were pending on March 31, 2012. (Figure 1)

Referral on Employee Status

The Board dealt with 21 applications under section 114(2) of the Act, seeking decisions on the status of individuals as employees under the Act. 8 cases were settled by the parties in discussions with labour relations officers. Two cases were granted, and the remaining 11 cases were pending on March 31, 2012. (Figure 1)

Referrals by Minister of Labour

In 2011-2012, the Board dealt with 35 cases referred by the Minister under section 115 of the LRA for opinions or questions related to the Minister's authority to appoint a conciliation officer under section 18 of the Act, under sections 48 or 49 of the LRA for authority to appoint an arbitrator, or under s3(2) of the Hospital Labour Disputes Arbitration Act. 13 applications were settled, advice was given to the Minister in 10 cases, and 11 cases were pending on March 31, 2012. (Figure 1)

First Agreement Arbitration

In 2011-2012, the Board processed 25 applications for directions to settle first agreements by arbitration. 5 cases were settled, 5 cases were granted, 1 case was dismissed and 14 cases were pending on March 31, 2012. (Figure 1)

Applications under The Public Sector Labour Relations Transition Act

The *Public Sector Labour Relations Transition Act, 1997* established a separate regime of successor rights governing matters that arise out of restructuring and amalgamations in the broader public sector. The Act gives the Board the power to determine new bargaining unit configurations, to appoint new bargaining agents, and to address other collective bargaining issues that may arise from municipal amalgamations, school board changes and hospital restructuring.

In 2011-2012, the Board processed 25 applications under *the Public Sector Labour Relations Transition Act, 1997.* Of the 18 cases that were disposed of, 5 cases were granted, 1 was dismissed, 12 cases were settled and 7 cases were pending on March 31, 2012. (Figure 1)

Time Required to Dispose of Applications, By Major Case Type

Fiscal Year 2011-12	All Cases		Certification Cases		Contravention of the Act Cases		Construction Industry Grievances Cases		All Other Cases		Total Certification Cases Granted		Non-Construction Granted		Construction Granted	
Time Taken (Business Days)	Dispositions	Cumulative %	Dispositions	Cumulative %	Dispositions	Cumulative %	Dispositions	Cumulative %	Dispositions	Cumulative %	Dispositions	Cumulative %	Dispositions	Cumulative %	Dispositions	Cumulative %
Total	**3,425**	**100.0**	**549**	**100.0**	**513**	**100.0**	**475**	**100.0**	**1,888**	**100.0**	**351**	**100.0**	**201**	**100.0**	**150**	**100.0**
Under 8 days	**313**	**9.1**	106	19.3	22	4.3	129	27.2	56	3.0	**62**	**17.7**	0	0.0	62	41.3
8-14 days	**408**	**21.1**	157	47.9	28	9.7	152	59.2	71	6.7	**118**	**51.3**	105	52.2	13	50.0
15-21 days	**230**	**27.8**	60	58.8	28	15.2	45	68.6	97	11.9	**45**	**64.1**	41	72.6	4	52.7
22-28 days	**190**	**33.3**	46	67.2	21	19.3	30	74.9	93	16.8	**36**	**74.4**	22	83.6	14	62.0
29-35 days	**191**	**38.9**	17	70.3	24	24.0	22	79.6	128	23.6	**13**	**78.1**	6	86.6	7	66.7
36-42 days	**151**	**43.3**	13	72.7	32	30.2	10	81.7	96	28.7	**9**	**80.6**	6	89.6	3	68.7
43-49 days	**153**	**47.8**	11	74.7	30	36.1	6	82.9	106	34.3	**6**	**82.3**	4	91.5	2	70.0
50-56 days	**118**	**51.2**	10	76.5	20	40.0	13	85.7	75	38.2	**8**	**84.6**	6	94.5	2	71.3
57-63 days	**107**	**54.3**	11	78.5	16	43.1	5	86.7	75	42.2	**6**	**86.3**	2	95.5	4	74.0
64-70 days	**100**	**57.3**	3	79.1	18	46.6	8	88.4	71	46.0	**2**	**86.9**	1	96.0	1	74.7
71-77 days	**93**	**60.0**	6	80.1	18	50.1	4	89.3	65	49.4	**4**	**88.0**	2	97.0	2	76.0
78-84 days	**84**	**62.4**	6	81.2	16	53.2	2	89.7	60	52.6	**1**	**88.3**	0	97.0	1	76.7
85-91 days	**69**	**64.4**	5	82.1	13	55.8	2	90.1	49	55.2	**1**	**88.6**	1	97.5	0	76.7
92-98 days	**58**	**66.1**	2	82.5	8	57.3	0	90.1	48	57.7	**1**	**88.9**	0	97.5	1	77.3
99-105 days	**59**	**67.9**	2	82.9	11	59.5	0	90.1	46	60.2	**0**	**88.9**	0	97.5	0	77.3
106-126 days	**169**	**72.8**	9	84.5	28	64.9	5	91.2	127	66.9	**3**	**89.7**	0	97.5	3	79.3
127-147 days	**131**	**76.6**	7	85.8	19	68.6	2	91.6	103	72.4	**3**	**90.6**	1	98.0	2	80.7
148-168 days	**167**	**81.5**	6	86.9	20	72.5	3	92.2	138	79.7	**2**	**91.2**	1	98.5	1	81.3
Over 168 days	**634**	**100.0**	72	100.0	141	100.0	37	100.0	384	100.0	**31**	**100.0**	3	100.0	28	100.0

* Excludes cases in which proceedings were adjourned sine die

Figure 13

Court Activity

On April 1, 2011, there were twenty-seven Board matters pending before the Courts, 26 of them at Divisional Court, and 1 matter seeking leave to the Court of Appeal (*Independent Electricity System Operator*).

During the 2011-2012 fiscal year, there were sixteen new applications for judicial review of Board decisions filed with the Divisional Court.

The Divisional Court disposed of a total nineteen applications for judicial review. Fifteen were dismissed; two were abandoned; two were granted (*Greater Essex County District School Board, No. 2* and *PharmaPlus*).

Twenty-three applications for judicial review remained outstanding on March 31, 2012.

One motion for leave to appeal was pending before the Ontario Court of Appeal on April 1, 2011: *Independent Electricity System Operator*. Motions for leave to appeal were filed in eight additional matters (*Greater Essex County District School Board, No. 1* and *No. 2, McKenney, PharmaPlus, Blue Mountain,* and three matters involving *Rainbow Concrete*).

Leave to appeal was granted in three cases: *Independent Electricity System Operator, Greater Essex County District School Board No. 2* and *Blue Mountain*.

Independent Electricity System Operator was heard by the Court of Appeal. The decision was still on reserve at the end of the fiscal year.

The merits of the other two appeals were still to be heard as at March 31, 2012.

Leave to appeal was dismissed in the three *Rainbow Concrete* matters. Leave to appeal was abandoned in *PharmaPlus*.

A determination of the leave motion was pending in two cases on March 31, 2012: *Greater Essex County District School Board No. 1* and *McKenney*.

There was no activity involving the Board at the Supreme Court of Canada. (Figure 14)

Fiscal Year 2011-12	Caseload			Disposed of				
Type of Case	Total	Pending April 1, 2011	Received	Total	Granted	Dismissed	Abandoned	Pending March 31, 2012
Total	**54**	**27**	**27**	**26**	**5**	**18**	**3**	**28**
Divisional Courts (Merits)	**42**	26	16	**19**	2	15	2	23
Ontario Court of Appeal (Seeking Leave)	**9**	1	8	**7**	3	3	1	2
Ontario Court of Appeal (Merits)	**3**	0	3	**0**	0	0	0	3
Supreme Court of Canada (Seeking Leave)	**0**	0	0	**0**	0	0	0	0
Supreme Court of Canada (Merits)	**0**	0	0	**0**	0	0	0	0

Figure 14 - Court Activity

Financial Position

The Board's annual operating budget is part of the Ministry's estimates and allocation process and the Board is required to report regularly on its expenditures and planned commitments.

The Deputy Minister of Labour has delegated authority for specific financial and administrative transactions to the Chair of the Board, the Director and Managers.

The OLRB is subject to audit review and expenditure constraints and its managers are accountable for following established management practices and using public resources for authorized purposes.

Fiscal Year – 2011/2012

All figures in $000.0 thousand

Account	Final Allocation	Year-end Actuals	Variance	% Variance
Salaries & Wages	**8,599.5**	**8,346.2**	**253.3**	2.9%
Benefits	**1,019.6**	**995.3**	**24.3**	2.4%
ODOE:				
Transportation & Communication	642.9	397.6	245.3	38.2%
Services (incl. Lease)	3,080.2	3,373.0	(292.8)	-9.5%
Supplies & Equipment	116.4	72.3	44.1	37.9%
Total ODOE	**3,839.5**	**3,842.9**	**(3.4)**	-0.1%
Total - OLRB	**13,458.6**	**13,184.4**	**274.2**	2.0%

Figure 15

Non-Tax Revenue	Year-end Actuals
Construction Grievance	528.4
Publications - Subscriptions	23.4
Total	**551.8**

Figure 16

Performance Measures

Each year the OLRB provides a broad accountability of progress achieved on our core performance measures. We take each of our goals and track progress on a series of performance measures designed to assess whether the Board is measuring up to corporate standards and program targets/commitments.

Measure	Standard / Target	2011-2012 Commitments	2011-2012 Achievements
Fiscal Measures: % variance between year end allocation expenditure	Less than 2% variance between year end allocation and expenditure	Less than 2% variance between year end allocation and expenditure	**Actual:** **- 2.4 % variance** Approved budget = 11,240.4 Actual expenditure = 10,970.2
Program Effectiveness Measures:	90% Industrial cert. votes held within 5-7 days.	90% Industrial cert. votes held within 5-7 days.	**Actual:** **95.7** % of votes held within 5-7 days or less
Meeting legislated time lines	95% held within 7-10 days	95% held within 7-10 days	**99.6 %** of votes held within 7-10 days or less
	5% or less held within more than 10 days	5% or less held within more than 10 days	**Less than 1 %** of votes held in more than 10 days
% of LRA cases settled by mediation	85% of LRA cases settled through mediation	85% of LRA cases settled through mediation	**Actual:** **81.3%** - Complex cases more likely to go to hearing *Based on completed case activity in certification/ unfair labour practices/grievances. and other cases.
% of ES and HS appeal cases settled by mediation	ESA (Appeals) cases = 75% OHSA (Appeals) cases = 75% OHSA (Complaints) cases = 75%	ESA (Appeals) cases = 75% OHSA (Appeals) cases = 75% OHSA (Complaints) cases = 75%	**Actual:** **82.1%** - ESA Appeals **93.1%** - OHSA appeals **87.1%** - OHSA Complaints
% of judicial reviews upheld	90-100% of judicial reviews upheld Board decision	90-100% of judicial reviews upheld Board decision	**Actual:** **80.8%** based on 26 disposed of cases 21 dismissed or withdrawn 5 granted

Figure 17

Accountability Statement

The OLRB's Annual Report for the fiscal year ending March 31, 2012 was prepared under my direction for submission to the Minister of Labour in accordance with the ***Agency Establishment and Accountability Directive – 2010***, as issued by Management Board of Cabinet.

The Public Accounts of Ontario are the annual financial statements that are prepared in compliance with the requirements of Section 13 of the *Ministry of Treasury and Economics Act*. The Public Accounts consist of the financial report of the Government of Ontario and the financial reports of each ministry. In accordance with the Ministry of Labour's Delegation of Financial Authority Framework, financial authority is delegated to the agency. Each year the OLRB verifies that all its transactions are reflected accurately and completely in the Public Accounts through the execution of a Certificate of Assurance.

The Results Based Plan of the Ministry of the Labour, which is to be released in the fall of each year, contains the Ministry's mission and accountability statements, the consolidated financial/allocation statements of the Ministry and an annual comparison of actual performance results to desired results set out in the Ministry business plan.

As an agency of the Ministry of Labour, the OLRB's Annual Report is subject to the minimum reporting requirements established in the ***Agency Establishment and Accountability Directive***, including:

- Financial statements that have been audited or subject to the appropriate level of external assurance;
- Analysis of operational performance;
- Analysis of financial performance;
- Names of appointees and term of appointments
- Performance measures, targets achieved/not achieved and action to be taken.

This report covers the fiscal year April 1, 2011 to March 31, 2012.

For More Information

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